

Conciliation Agreement

Between

THE U.S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

And

LIVANOVA USA (Formerly Sorin Group USA, Inc)

I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the LivaNova USA (herein "LivaNova") establishment located at 14401 W. 65th Way, Arvada, CO 80004, beginning on January 30, 2020. OFCCP shared its findings of its evaluation with LivaNova through a Notice of Violations dated July 20, 2022, that alleges LivaNova failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order), and its implementing regulations at 41 Code of Federal Regulations (C.F.R.) Chapter 60.

In the interest of resolving the violations without engaging in further investigation and in exchange for sufficient and valuable consideration described in this document, OFCCP and LivaNova enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein. The attachments to this Agreement are deemed incorporated into this Agreement.

II. GENERAL TERMS AND CONDITIONS

1. In exchange for LivaNova's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246 based on the violations described in more detail in Part III. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if LivaNova violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review LivaNova's compliance with this Agreement as detailed in Part VI and Attachment A.
3. Nothing in this Agreement relieves LivaNova of its obligation to fully comply with the requirements of E.O. 11246, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (Section 503), the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (VEVRAA), their implementing regulations, or

other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.

4. LivaNova and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246.
5. LivaNova agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding with the OFCCP.
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. This Agreement, including its attachments, constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties. If an administrative error is found, OFCCP will work in good faith with all parties to make the correction.
8. This Agreement becomes effective on the day it is signed by the Southwest and Rocky Mountain Regional Director (Effective Date).
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after LivaNova submits its final progress report required in Section VI, below, unless OFCCP notifies LivaNova in writing before the expiration date that LivaNova has failed to fulfill all of its obligations under the Agreement.
11. If LivaNova violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34 will govern:
 - i. OFCCP will send LivaNova a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. LivaNova shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - iii. If LivaNova is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement

- b. LivaNova may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. 60-1.27, and/or other appropriate relief for violating this Agreement.
12. LivaNova denies any violation of the Executive Order, Section 503 or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.
13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
14. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the Office of Federal Contract Compliance Programs
15. Each party shall bear its own fees and expenses with respect to this matter.
16. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
17. All references to "days" in this Agreement, and in the Timeline included as Attachment B, are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

III. ALLEGATIONS OF COMPENSATION DISPARITIES

FINDINGS: During the period of January 30, 2018, to January 30, 2020, OFCCP identified potential compensation disparities under 41 CFR 60-2.17(b) and (c). OFCCP's analysis of compensation data provided by LivaNova for December 31, 2019, revealed potential disparities in compensation for female employees in the following job groups: Job Group 3 (Laboratory Technologists, Equipment Maintenance Tech, Service Depot Technician, Field Service Rep,) and Job Group 1, Executive Management, therefore, LivaNova is not in compliance with 41 CFR 60-1.4 (a).

LivaNova denies the OFCCP's allegations regarding pay inequities based on gender, and this Agreement does not constitute an admission by LivaNova of any violation of or noncompliance with E.O. 11246, Section 503, or VEVRAA.

REMEDY: LivaNova will continue to ensure its compensation system is nondiscriminatory to all employees, regardless of sex. LivaNova will correct any gender-based disparities in compensation, if any, of female employees in Job Groups 1 and 3, including salary adjustments, promotion opportunities, and/or job assignments. The salary adjustments are in addition to any increases employees

would have received based on any merit increases, promotional opportunities, or job assignments. LivaNova will provide salary adjustments based on the differences, if any, between what the employees earned to what they should have earned when compared to other employees who were in similarly situated positions. LivaNova will also provide training for employees involved in setting and increasing compensation.

IV. PAY EQUITY ANALYSES AND SALARY ADJUSTMENTS

- 1. Pay Adjustments.** To proactively facilitate compliance with Executive Order 11246, LivaNova will conduct an annual analysis as set forth in Part IV(2)(a) below and Attachment B. LivaNova agrees that it will allocate Fifty Thousand Dollars (\$50,000) for Pay Adjustments if LivaNova determines there are any gender-based disparities in compensation in Job Groups 1 and 3; if no such disparities exist or if such disparities require less than \$50,000 in Pay Adjustments, LivaNova will allocate the \$50,000 as further provided in this Agreement. If any Pay Adjustment would cause some other unintended inequity, LivaNova will distribute the money more broadly among its female employees.
- 2. Pay Equity Analysis.**
 - a.** LivaNova will conduct a pay equity analysis of its employees' compensation using a snapshot of data from January 1, 2023, to ensure pay equity for women, using the methodology described in Attachment B. From this data, LivaNova will first determine salary adjustments to be made to adversely impacted females, if any, currently employed at the Arvada, CO establishment in Job Groups 1 and 3. If such adjustments amount to less than \$50,000 for Job Groups 1 and 3, LivaNova will then determine salary adjustments to be made for any other adversely impacted females, if any, at the Arvada, CO establishment in other Job Groups.
 - b.** By March 31, 2023, LivaNova will submit the data from the snapshot date and the proposed salary adjustments as specified in Attachment B to OFCCP.
 - c.** By April 21, 2023, OFCCP will approve the proposed salary adjustments from LivaNova's pay equity analyses.
 - d.** By May 5, 2023, LivaNova will make pay equity adjustments using the adjustment process described in Attachment B.
 - e.** By May 5, 2023, LivaNova will provide OFCCP with a report containing the salary adjustments paid to females in Job Group 1 and Job Group 3, if any, as specified in Attachment B.
 - f.** The methodology set forth in Attachment B is to be used by the parties for these settlement purposes only, and it shall not be precedent in any future OFCCP investigations, proceedings, or other conciliation agreements.

V. REVIEW OF COMPENSATION PRACTICES

1. **Self-Analysis of Pay Disparities.** Pursuant to 41 C.F.R. 60-2.17(b), LivaNova will review annually its compensation policies and practices to ensure LivaNova complies with 41 C.F.R. 60-1.4(a)(1). This includes monitoring base salary as well as the administration of non-base compensation, benefits, and employment actions, for any indication of statistically significant disparities based on gender, race and/or ethnicity and will investigate and remedy any such inequity. If any such disparities cannot be explained by legitimate factors, then LivaNova will remedy such disparities through salary adjustments. LivaNova will also evaluate whether starting salaries, salary increases, promotion decisions, level designation, and job assignments result in a disproportionately negative effect on the compensation of employees of a particular gender, race, and/or ethnicity. If these decisions have an adverse impact on employees of a particular gender, race and/or ethnicity, LivaNova will consider alternative practices that satisfy business necessity without causing a disparity.
2. **Review Policies and Procedures.** LivaNova will review and, as necessary, revise its compensation practices and establish monitoring and oversight mechanisms to ensure that all aspects of its compensation system provide an equal opportunity to all of its employees as required by 41 C.F.R. 60-1.4(a). All revised pay practices must ensure nondiscrimination in rates of pay or other forms of compensation.
3. **Training.** LivaNova must provide training to all its managers and supervisors who make compensation decisions at the location covered in this Agreement, as well as to all human resources personnel at this establishment. This training will include subjects of equal employment opportunity rights and responsibilities, and training on any new policies and practices established pursuant to Paragraph 2 above. This training must include a formal assessment to ensure that managers who have completed the training understand and can implement the requirements to (1) follow compensation practices that do not discriminate on the basis of race, ethnicity and sex, (2) consistently and fairly implement the new or revised written practices, and (3) properly document the results of their decisions and retain appropriate records.
4. **Pay Transparency.** LivaNova agrees to conduct a pay transparency review to confirm its commitment to compliance with 41 C.F.R. 60-1.35. LivaNova's review will include confirming policy dissemination through LivaNova's handbook and review its location to confirm pay transparency posters are displayed.

VI. REPORTS AND MONITORING

1. **Recordkeeping.** LivaNova agrees to retain all records relevant in this matter cited in Section III above and the reports submitted in compliance with Paragraph 2, below. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records, and any other records or data used to generate the required reports. LivaNova will retain the

records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. Progress Reports.

a. **Schedule and Instructions.**

- i. *Progress Report on compliance with Part IV(2)(a) and V:* LivaNova agrees to submit reports to the OFCCP of the pay adjustments made in accordance with Part IV of this Agreement (Progress Report) as outlined in the Timeline Attachment A. The Progress Report will contain the employee name, employee ID and gender of the recipient of the pay adjustment, and the adjustment amount. LivaNova will also provide employee name, employee ID, gender, and current salary (total compensation, base pay, bonus, other forms of compensation separately) of all employees in the Job Groups 1 and 3¹ as of the snapshot date LivaNova used to conduct the compensation analyses for OFCCP's verification. Both parties will treat Attachments A, B, and any Progress Report or any other information or documents LivaNova provides to OFCCP under this Agreement as (a) privileged and/or confidential, and (b) commercial and/or financial information. OFCCP will protect from disclosure such information or materials from disclosure to the maximum extent permitted by law.
- ii. A statement from LivaNova confirming that it conducted its annual self-analysis of pay as described in Part V above.
- iii. Documentation of any revised compensation policies and procedures, if any, as described in Part V above.
- iv. Documentation of training on equal opportunity in compensation training, as described in Part V above.
- v. Confirmation of the pay transparency review, as described in Part V above.

b. **LivaNova will submit reports to:**

Assistant District Director: Lauren Blunck
1244 Speer Blvd., Suite 540
Denver CO, 80204

(b) (6), (b) (7)(C)

3. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts LivaNova's final progress report as set forth in Part II,

¹ Job Groups 1 and 3 will contain the following job titles: Job Group 1, (Executive Managers) and Job Group 3 (Laboratory Technologists, Equipment Maintenance Tech, Service Depot Technician, Field Service Rep). If the jobs or job titles change, the salary adjustments will be used for similar jobs or the "replacement" jobs.

Paragraph 10 above. If OFCCP fails to notify LivaNova in writing within sixty (60) days of the date of the final progress report that LivaNova has not fulfilled all of its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies LivaNova within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines LivaNova has met all of its obligations under the Agreement.

IX. SIGNATURES

The person signing this Agreement on behalf of LivaNova personally warrants that he or she is fully authorized to do so, that LivaNova has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on LivaNova.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and LivaNova USA (formerly Sorin Group USA), 14404 W. 65th Way, Arvada, CO 80004.

(b) (6), (b) (7)(C)

Name Marjorie Allinson
Title Vice President, Finance
Company – LivaNova USA

DATE: 9/30/2022

(b) (6), (b) (7)(C)

Melissa L. Speer
Regional Director
Southwest and Rocky Mountain Region

DATE: 9-30-2022

Attachments:

- A. Timeline
- B. Statistical Model

ATTACHMENT A

TIMELINE

Company Name: LivaNova R00302375 Effective Date of Conciliation Agreement:		09/30/2022
Action Required	Number of Days OFCCP	Due Date
LivaNova will use compensation data based on its snapshot date January 1, 2023.		01/01/2023
For LivaNova's fiscal year 2023, LivaNova will continue to conduct annual pay equity analyses of its employees to ensure pay equity for women, using the methodology described in Attachment B. LivaNova will use a snapshot from data on January 1, 2023. LivaNova will submit the data and self-analysis as requested in Attachment B from the snapshot date to OFCCP by March 31, 2023.		03/31/2023
LivaNova and OFCCP will conduct a conference call; in order to discuss the results of LivaNova's pay equity analysis.		04/7/2023
OFCCP will approve the salary adjustments from LivaNova's pay equity analyses conducted on the January 1, 2023, data.		04/21/2023
LivaNova will complete all of the salary adjustments identified in its pay analysis and agreed to by OFCCP.		05/5/2023
LivaNova will report to OFCCP the completed salary adjustments identified in its pay equity analysis		05/5/2023
LivaNova will submit all employee's salary information and recommended salary adjustments by June 1, 2023		06/01/2023
OFCCP will approve the additional pay adjustments by June 15, 2023		06/15/2023
LivaNova will use the remaining funds in year 2023 for <i>any</i> salary adjustments for <i>any</i> female employees at this location by June 30, 2023.		06/30/2023
LivaNova will send a report on these salary adjustments to OFCCP by June 30, 2023, as an additional progress report.		06/30/2023
If there is any money left after the salary adjustments, OFCCP and LivaNova will have a meeting by July 7, 2023, to discuss the use of remaining money by the end of the calendar year.		07/07/2023
LivaNova will submit a progress report and documentation of use of the remaining money.		12/01/2023

ATTACHMENT B

SALARY ADJUSTMENTS METHODOLOGY

Pay Adjustments Calculation 2023:

In accordance with Part IV of the Agreement, LivaNova will allocate a one-time lump sum of \$50,000 for pay adjustments for adversely affected females in Job Groups 1 and 3 employed at the Arvada, CO establishment, if any; and then for pay adjustments for adversely affected females in other Job Groups, if any. LivaNova will conduct a pay equity analysis using data from the snapshot date January 1, 2023. Salary adjustments are calculated and awarded in addition to any pay increase female employees would be entitled to (i.e., merit increases or bonuses).

LivaNova will submit to OFCCP the compensation data for the snapshot dates and a report (Proposed Pay Adjustments 2023 Report) containing the proposed salary adjustments to OFCCP by March 31, 2023.

This Proposed Pay Adjustments 2023 Report will include:

- 1) Employee name, employee ID, gender, and current salary as of the snapshot date for every employee in the job groups and job titles, and
- 2) Recommended salary adjustments for female employees in the job groups and job titles.

OFCCP and LivaNova will hold a conference call on the date set forth in Attachment A to discuss the results of the pay equity analysis and for OFCCP to provide feedback to LivaNova on its methodology.

OFCCP may request additional information to confirm the salary adjustments, such as the factors used in LivaNova's compensation regression. These factors may include but are not limited to time-in-job, other-time-in-company, prior experience, location, education, FLSA exempt status, part-time status, rehire status, and salary grade. Upon OFCCP's approval, Contractor may use pay analysis groups that it determines are consistent with its administration of pay. LivaNova may submit additional factors for OFCCP to consider.

OFCCP will approve the proposed salary adjustments by April 21, 2023. LivaNova will institute all annual pay equity adjustments by May 5, 2023.

Salary adjustments will be distributed to all females currently employed at the Arvada, CO establishment in the Job Groups 1 and 3 (whether or not the employees were in the OFCCP's original snapshot analyses of December 31, 2019) until all \$50,000 is spent. If the jobs or job titles change, the salary adjustments will be used for similar jobs or the "replacement" job. To

the extent there is money remaining, salary adjustments will be made for females currently employed at Arvada, CO in other Job Groups.

Once LivaNova makes the approved salary adjustments, it will provide a report (Completed Pay Adjustments 2023) by May 5, 2023.

This Completed Pay Adjustments 2023 Report will include:

- 3) Employee name, employee ID, gender, and current salary as of the snapshot date for every employee in the job groups and job titles, and
- 4) Amount of salary adjustments for each female employees in the job groups and job titles, and the date the adjustment was made.

If the 2023 Pay Adjustments are less than \$50,000, LivaNova will submit salary information for all employees at this location to OFCCP by June 1, 2023, as listed in 3 above, and its salary adjustment recommendations. LivaNova will use the remaining funds in year 2023 for *any* salary adjustments for *any* female employees that the Pay Equity Analysis revealed were adversely impacted at this location. OFCCP will approve the salary adjustments by June 15, 2023, and LivaNova will make the payments by June 30, 2023, and send a report on additional salary adjustments by June 30, 2023.

If there is any money left after all salary adjustments, OFCCP and LivaNova will have a meeting by July 7, 2023 to discuss the use of remaining money by the end of the calendar year.

None of the \$50,000 one-time lump sum set aside for salary adjustments or other equal employment opportunity or affirmative action initiatives agreed upon by the parties can revert to LivaNova.